

**BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:

JOHN CAPPELLO, D.O.
Holder of License No. 3178 for the
practice of osteopathic medicine in the
State of Arizona.

Case No. 2127

**STIPULATION AND CONSENT
ORDER**

RECEIVED

AUG 21 1997

STIPULATION

ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By mutual agreement and understanding, the Arizona Board of Osteopathic Examiners (hereafter "Board") and John Cappello, D.O. (hereinafter "Respondent"), the parties hereto agree to the following disposition to this matter.

1. Respondent acknowledges that he has read this Stipulation and the attached Consent Order; and, Respondent is aware of and understands the content of these documents.

2. Respondent understands that by entering into this Stipulation, he voluntarily relinquishes any rights to a hearing on the matters alleged as grounds for Board action or to seek judicial review of the consent order in state or federal court.

3. Respondent understands that this Stipulation and Consent Order will not become effective unless approved by the Board and signed by its Executive Director.

4. Respondent further understands that this Stipulation and Consent Order, once approved and signed, shall constitute a public records which will be disseminated as a formal action of the Board.

5. Respondent admits to the statement of facts and conclusions of law contained in the Stipulated Consent Order.

6. All admissions made by Respondent are solely for final disposition of this matter and any subsequent administrative proceedings or litigation involving the Board, Respondent and the State of Arizona; and, therefore, said admissions by Respondent are not intended for any other purpose or administrative regulatory proceeding or litigation in another state or federal court.

7. Respondent acknowledges and agrees that upon signing and returning this document (or a copy thereof) to the Board's Executive Director, he may not later revoke or amend this Stipulation or any part of the Consent Order, although said Stipulation has not yet been accepted by the Board and issued by its Executive Director, without first obtaining Board approval.

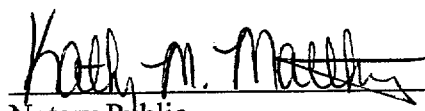
8. Respondent's failure to comply with the requirements of this Order shall constitute unprofessional conduct as defined in A.R.S. § 32-18154(2), as amended, and may be considered as grounds for further disciplinary action.

REVIEWED AND ACCEPTED this 14th day of August, 1997.

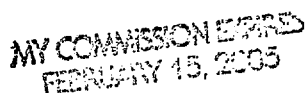

John Cappello, D.O.

STATE OF ARIZONA)
) ss
County of Maricopa)

This instrument was acknowledged before me this 14 day of August, 1997 by the above-named individual.

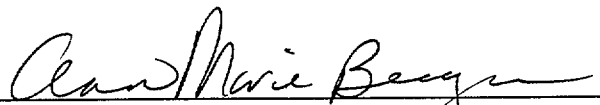

Notary Public

My Commission expires:


MY COMMISSION EXPIRES
FEBRUARY 15, 2005

REVIEWED AND APPROVED as to form by counsel for Respondent on this ____ day of
August, 1997.

REVIEWED AND SIGNED this 2nd day of August, 1997 for the Board by:


Ann Marie Berger, Executive Director
Arizona Board of Osteopathic Examiners in Medicine
and Surgery

**BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:

JOHN CAPPELLO, D.O.
Holder of License No. 3178 for the
practice of osteopathic medicine
in the State of Arizona.

)
)
)
)
)
)
)

CONSENT ORDER

FINDINGS OF FACT

1. John Cappello, D.O., (hereafter "Respondent"), is a licensee of the Board and the holder of License No. 3178.
2. On December 4, 1996 the Board received a statement from Respondent that he had not provided complete and accurate information on his application form regarding a past arrest that had been subsequently expunged and a diagnosis of a mental illness.
3. On February 14, 1997 Respondent acknowledged to the Board's Executive Director that he would enter into a Stipulated Consent Order with the Board for probation and monitoring of his mental illness.
4. Respondent has entered into Stipulated Consent Orders in the states of Pennsylvania and South Carolina regarding the monitoring of his mental illness. Respondent has entered into a Stipulated Consent Order in the state of Mississippi that he provided false information on an application form and will not practice medicine in Mississippi and will not seek renewal of his medical license.

CONCLUSIONS OF LAW

1. Pursuant to Arizona Revised Statutes § 32-1800, et seq., the Arizona Board of Osteopathic Examiners in Medicine and Surgery has subject matter and personal jurisdiction in this matter.
2. Pursuant to Arizona Revised Statutes § 32-1855 and § 41-1061(D), the Board has the authority to enter a Stipulated Consent Order for final disposition of this case.
3. Respondent engaged in unprofessional conduct as defined at A.R.S. § 32-1854(41), i.e. any conduct or practice that impairs the licensee's ability to safely and skillfully practice medicine or that may reasonably be expected to do so.
4. The Findings of Fact set forth above herein, the Board concludes that it has the requisite factual basis and legal authority to enter into an order with Respondent.

ORDER

Pursuant to the authority vested in the Board, **IT IS HEREBY ORDERED THAT:**

1. John Cappello, D.O. ("Respondent") is placed upon probation for five (5) years and shall comply with the terms and conditions of probation set forth herein.
2. Respondent shall remain in compliance with all orders issued and imposed upon him as a licensed physician in the States of ~~Pennsylvania, South Carolina and Mississippi~~ while residing and/or practicing as a physician in that state; and, Respondent shall otherwise remain in good standing as a licensed physician in the States of ~~Pennsylvania, South Carolina and Mississippi~~.
3. For the duration of the five year probation, when Respondent is residing and practicing medicine in the State of Arizona, Respondent shall obtain psychiatric or psychological treatment by a therapist(s) who is either a licensed psychiatrist and/or psychologist and is selected

5

** Not licensed or practicing nor intending to be either in PA or MS*

by Respondent and approved by the Board.

- (A) Respondent shall comply with the therapist(s) recommendation for the frequency of treatment sessions. Respondent shall inform the Board by letter of the therapist's name; and, Respondent shall undertake and fully cooperate with a program of treatment established by the therapist. In the event Respondent changes therapists, he shall give the Board written notice within ten (10) days of said action. Respondent shall not discontinue or reduce the frequency of psychotherapy sessions until he has submitted a written request to the Board and obtain Board approval.
- (B) Respondent's therapist(s) shall receive a copy of this Order. The treating therapist shall be directed by Respondent to send to the Board a written progress reporter every month for the first six (6) months, then every three (3) months for the remainder of the probation; and Respondent shall waive confidentiality concerning his psychotherapy solely for the purpose of the Board receiving full disclosure of information. The expense of the aforementioned therapy and the reports to the Board by Respondent's therapist shall be the sole responsibility of the Respondent.
- (C) Respondent shall provide a copy of this Order and any subsequent Orders to all facilities where Respondent is currently (or subsequently) employed as a physician and/or has (or subsequently receives) privileges to engage in the practice of medicine; and, Respondent shall continue to make the aforementioned disclosure and provide copies of this Consent Order until the expiration of this Order.

4. Respondent may have his license to practice as an osteopathic physician restricted, suspended or revoked by the Board in the future if:

- (A) The Board finds that Respondent does not have the requisite mental, physical and emotional fitness to safely continue the practice of medicine; or,
- (B) There are new grounds for finding unprofessional conduct concerning Respondent; or
- (C) Respondent fails to comply fully with the terms and conditions of this Order.

5. When residing and practicing medicine in Arizona, Respondent shall not consume illicit drugs or take any controlled substances (i.e. prescription only drugs), unless such medication is prescribed for him by his treating physician. Respondent shall maintain a monthly log (for the duration of probation) and provide a copy of the log to the Board at the first of each month of all

prescription only drugs taken by him and such log shall include the following information:

- (a) the name of the medication;
- (b) the name of the prescribing physician; and
- (c) the reason for the medication.

6. Respondent shall also as part of his probation: (A) submit to and cooperate in any independent medical or psychological evaluation that is ordered by the Board for Respondent and conducted by the Board's designated physician and/or psychologist which shall be paid for by the Respondent; and (B) appear before the Board upon receipt of a request by written or telephonic notification from the Board's executive director or executive director's designee which shall be given at least five (5) days prior to the Board meeting.

7. While residing and practicing medicine in Arizona, Respondent shall submit to random biological fluid testing and promptly provide (i.e., within sixty (60) minutes of notification) required biological fluids for testing and said testing shall be done at the Respondent's expense.

8. In the event Respondent changes his residence or business address, he shall give written notice to the Board of his new address within twenty (20) days of moving.

9. Respondent shall comply with all terms and conditions imposed by any Arizona hospital where Respondent has privileges or later obtains privileges to practice; and, said hospital's chief executive officer shall be provided by Respondent within five (5) days after receipt with a copy of this Consent Order, in its entirety.

ISSUED this 22 th day of August, 1997.

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: Ann Marie Berger
Ann Marie Berger, Executive Director
9535 E. Doubletree Ranch Rd.
Scottsdale AZ 85258-5539

Served by personal service or
sending U.S. certified mail
this 22 ~~nd~~ day of August, 1997 to:

John Cappello, D.O.
108 N. Blanding St.
Lake City, SC 29560

Copy mailed this 22nd day of August, 1997
to:

Blair Driggs
Assistant Attorney General
Office of the Attorney General
1275 W. Washington
Phoenix AZ 85007 (w/enclosure)

Karen L Pully